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UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: **Edith Ramirez, Chairwoman**
Julie Brill
Maureen K. Ohlhausen
Joshua D. Wright
Terrell McSweeny

In the Matter of	)	
FOCUS EDUCATION, LLC, **a limited liability company,**	)	**DOCKET NO.**
MICHAEL APSTEIN, **individually and as an officer of FOCUS EDUCATION, LLC,**	)	
and	)	
JOHN ABLE, **individually and as an officer of FOCUS EDUCATION, LLC.**	)	

COMPLAINT

The Federal Trade Commission, having reason to believe that Focus Education, LLC, a limited liability company, Michael Apstein, individually and as an officer of Focus Education, LLC, and John Able, individually and as an officer of Focus Education, LLC (collectively, "Respondents"), have violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent Focus Education, LLC ("Focus Education") is a Texas limited liability company with its principal office or place of business in Houston, Texas.

2. Respondent Michael Apstein is the co-founder and Chief Executive Officer of Focus Education. Individually or in concert with others, he controlled or had the authority to control and participated in the acts and practices of Focus Education, including the acts and practices alleged in this complaint. His principal office or place of business is in Malibu, CA.

3. Respondent John Able is the co-founder and Chief Financial Officer of Focus Education. Individually or in concert with others, he controlled or had the authority to control and participated in the acts and practices of Focus Education, including the acts and practices alleged in this complaint. His principal office or place of business is in Houston, Texas.

4. Respondents have advertised, labeled, offered for sale, sold, and distributed products to consumers, including the "ifocus System," which consists of the Jungle Rangers computer software and comic book and information on children's behavior, exercise, and diet. The ifocus System is a "device," within the meaning of Sections 12 and 15 of the Federal Trade Commission Act.

5. The acts and practices of Respondents alleged in this complaint have been in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act.

ifocus System

6. Since 2012, Respondents have sold the ifocus System directly to consumers for $214.75, plus tax, via a long-form television commercial ("infomercial"), and the company's websites, www.focuseducation.com, www.ifocussystem.com, www.ifocusgame.com, and www.junglerangers.com.

7. The centerpiece of the ifocus System is the Jungle Rangers computer software. Jungle Rangers is intended for children between the ages of six and twelve and purportedly offers adaptive cognitive training, so that the difficulty level of the software's games continuously self-adjusts to the player. Focus Education recommends that children play Jungle Rangers for a total of twelve to twenty hours. Children play Jungle Rangers on their own without any supervision by a trained clinician, and parents can track their child's game performance through the Jungle Rangers "Dashboard."

8. The Jungle Rangers computer software is available for Apple and Microsoft operating systems and consists of nine games where children begin as "cadets" and train through three "worlds" to become "Jungle Rangers." The three worlds include exercises with embedded cognitive tasks, including simple span tasks (repeating a pattern in the order presented), backwards span tasks (repeating a pattern in the reverse order presented), complex span tasks (repeating a pattern even when faced with visual or sound interferences), *n*-back tasks (focusing on a list of items and making a specific response each time the currently presented item matches the item presented n times ago), and continuous performance tasks (paying attention to a low-frequency activity and responding to pre-defined action).

9. Respondents have advertised Jungle Rangers through an infomercial, radio spots, social media, and the company's websites. Respondents have represented, among other things, through express and implied claims and consumer endorsements, that Jungle Rangers permanently improves children's focus, memory, attention, behavior, and school performance, including in children with Attention Deficit Hyperactivity Disorder ("ADHD"). Defendants have also represented that Jungle Rangers is scientifically proven to improve children's cognitive abilities, behavior, and academic performance.

10. Sales of Jungle Rangers, minus returns, from 2012 through May 31, 2013 totaled approximately $4.5 million.

11. To induce consumers to purchase the ifocus System, Respondents have disseminated or have caused to be disseminated advertisements, including but not necessarily limited to the attached Exhibits A through F. These materials contain the following statements:

A. MALE ANNOUNCER: "Do you know your child is bright, but that struggles with focus or [sic] dragging down grades and self esteem?"

UNIDENTIFIED FEMALE: "Because she gets bored so easily, then she has a very difficult time focusing."

MALE ANNOUNCER: "What if you could give your child the ability to focus, complete school work, homework and to stay on task, to reach the promise of his or her potential simply by playing a fun and easy computer game? Now you can with ifocus. Ifocus has hidden[,] powerful brain training exercises inside the fun and easy Jungle Rangers game and the results are astounding."

[On screen depictions omitted]

* * *

"Ifocus is a powerful new approach developed to help kids focus in a groundbreaking new way. The secret is integrated neuro technology. Every challenge and sequence built into the ifocus game was scientifically engineered to strengthen important neuron connections, helping your child to filter, focus, absorb and remember."

[On screen depictions omitted]

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ON SCREEN: "Connie
Jacquelyn's Mom"

CONNIE: "We just got done his [sic] parent-teacher conference and Jacquelyn's one of the highest one [sic] in her classes in reading. . . ."

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UNIDENTIFIED FEMALE: "He's actually going into a higher level in reading. He has - - he gets more comprehension."

* * *

ON SCREEN: "John Able

Parent, ifocus Co-Founder. . . ."

JOHN ABLE: "It's taking their brain and opening up the neuro pathways and their ability to focus and pay attention is improved."

(Ex. A, Infomercial version 1, at p. 5-8, 11, 23, 41-42)

B. FEMALE ANNOUNCER: "Here to tell us more is brain specialist and ifocus scientific advisor, Dr. Daniel Amen. He's a child psychiatrist and brain imaging specialist and he's authored 28 books on the brain. Dr. Amen is also a father and a grandfather."

DR. DANIEL AMEN: "As a child psychiatrist, I've not been all that excited about video games for children because children have developing brains. Here, we had developers, in a thoughtful way, develop a game to actually strengthen the connections in the brain. It's a very interesting term called 'long-term potentiation.' So, what that means is the connections between cells actually become stronger. So, to have the opportunity to actually study it and show that it is, in fact, helpful was very exciting for me. So, we had a group of 45 children. What we found was their ability to regulate themselves[,] so self regulation and emotion statistically significantly increased after the kids played the game. If you can help a child with their emotions[,] regulate themselves, they're more successful in their lives. Not only are they happier, but they're able to stay on task. So, I think any kid will benefit from this."

[On screen depictions omitted]

* * *

MALE ANNOUNCER: "[B]ecause hidden within every level of the nine innovative ifocus Jungle Rangers games are scientifically proven memory and attention brain training exercises, designed to improve focus, concentration and memory[,] strengthening important neuron connections like these span sequences[,] which ask players to remember complex information, even while distracted. So, many kids who play Jungle Rangers span games feel a jump in math and reading comprehension."

[On screen depictions omitted]

ON SCREEN: "CONTINUOUS PERFORMANCE
PAY ATTENTION
LEARN PATIENCE
FOCUS"

MALE ANNOUNCER: "Continuous performance games are all about paying attention and learning patience. Research proves kids who play continuous performance games are able to stay alert, be less distracted and really focus on what's going on around them."

ON SCREEN: “N-BACK
HOLD INFORMATION
UPDATE INFORMATION
REMEMBER AND FOCUS”

MALE ANNOUNCER: “And N-Back requires players to hold information and update that information. It’s practice for real life, helping kids to think about what they’ve learned and to focus and remember what they need to do. It’s this innovative[,] groundbreaking combination of proven science and increasingly challenging fun that has kids hooked from the very first time they play.”

[On screen depictions omitted]

* * *

FEMALE ANNOUNCER: “Zak and Zane are identical twins. Think busy times two. Their dad knows how important exercise is for young boys, so he makes sure they spend a lot of time outside working off their energy. And while they’re great when it comes to sports, both Zak and Zane had trouble focusing at school.”

GARTH: “But to try to focus to do homework, there’d be times where it would take me a half-hour to just do one math problem.”

FEMALE ANNOUNCER: “But since playing the Jungle Rangers game and using the ifocus System, Zak and Zane are able to focus, filter out distractions and homework has become much more productive.”

ON SCREEN: “Garth
Zak and Zane’s Dad
Individual Result - your child may not be as successful”

(disclosure appears in fine print at the bottom of the TV screen)

GARTH: “Well, they’re doing better in school. We just got their report cards, and we were shocked, all As and Bs. They’ve never had that before.”

On SCREEN: “Zak and Zane
age 9 www.ifocusSystem.com”

CHILD: “Every time we come home from school, we can do our math all by ourselves.”

* * *

FEMALE ANNOUNCER: “Parents and teachers notice a difference in attention, behavior and focus when kids use the ifocus system. But we wanted to see for ourselves, so we put ifocus to the real test, real kids at a real school.”

FEMALE ANNOUNCER: "The ifocus Jungle Rangers game isn't available at schools, so elementary school principal Lori Jensen jumped at the opportunity to test it as part of her curriculum."

LORI JENSEN: "It fit into what we were trying to do with our students, engage them in the learning process, but also expand what their brains were going to be able to do."

FEMALE ANNOUNCER: "The teachers were enthusiastic."

JANE MARSHALL: "And, actually, as educators, that's what we're trying to do. We're trying to create new pathways in the brain."

FEMALE ANNOUNCER: "So, students played the ifocus Jungle Rangers game in computer lab and teachers noticed a difference in their classrooms."

JANE MARSHALL: "A typical third grade class you're really working to keep them focused."

LORI JENSEN: "She can tell a difference in their attention span in the classroom."

LAVONNE RIGGS: "I have seen a vast improvement. This class seems to be motivated and focused, and the only thing we're doing differently is Jungle Rangers."

JANE MARSHALL: "I love finding ways to help the children learn and Jungle Rangers does play a part in helping the children learn how to focus and to retrieve information and they enjoy doing it, so half the battle's gone right there. . . ."

LORI JENSEN: "It will help them with their attention span and their focus."

[On screen depictions omitted]

* * *

FEMALE ANNOUNCER: "Isaac is a busy nine-year-old and Isaac had trouble paying attention in school until his mom discovered the ifocus System."

[On screen depictions omitted]

FEMALE ANNOUNCER: "He started playing Jungle Rangers and she learned easy ways to help him change his behavior, to get organized and to get focused."

ON SCREEN: "Alitza
Issac's Mom www.ifocusSystem.com"

ALITZA: "The teacher actually has told me that this couple weeks [sic], she's noticed big, big change."

FEMALE ANNOUNCER: “Now, instead of spending hours on homework, Isaac is able to stay on task.”

* * *

FEMALE ANNOUNCER: “Trista is a bubbly six-year-old who is very bright. . . .”

ON SCREEN: “Taffie
Trista’s Mom www.ifocusSystem.com”

TAFFIE: “Trista is very intelligent, but because she gets bored so easily, then she has a very difficult time focusing. Every parent-teacher conference, it’s always, you know, she’s a little chatterbox, we have a hard time keeping her in her seat.”

FEMALE ANNOUNCER: “That was before Trista starting playing the ifocus Jungle Rangers game.”

TAFFIE: “So, we went to this parent-teacher conference this last time and I said to her teacher, you know, how are things going? She said, I don’t know what you’re doing at home, but you need to keep it up because it’s helping her.”

FEMALE ANNOUNCER: “Playing Jungle Rangers really has made a difference for Trista and she knows exactly why.”

TRISTA: “It does help me pay attention.”

[On screen depictions omitted]

(Ex. B, Infomercial version 4, at p. 16-18, 20-21, 29-30, 33-35, 41, 46-47)

C. MALE ANNOUNCER: “Jungle Rangers game is cutting edge science [with] proven memory and attention brain training exercises, every one of them designed to help improve your child’s concentration and memory.”

TIFFANY: “When I got that game, I started doing really, really good in school.”

FORRESTER: “I pay attention to my teacher a lot more.”

CHAZZ: “I have better grades.”

JACKSON: “I’ve been getting a lot more 100 percents.”

[On screen depictions omitted]

(Ex. C, Infomercial version 7, at p. 8-9)

D. MALE ANNOUNCER: "But what if there was a way to fight that summer brain drain by sharpening your child's memory and attention skills so that the very first day of class he or she is alert on task and ready to learn? Well, now you can. Introducing the ifocus Jungle Rangers Brain Training System. What looks like a simple computer game is really much more. You're actually looking at cutting edge science[,] a series of proven memory and attention brain training exercises integrated into this fun, challenging game, every one of them designed to help ensure kids stay sharp and focused over the brain draining summer."

[On screen depictions omitted]

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ON SCREEN: "Research has shown self-regulation is far more important than IQ"

MALE ANNOUNCER: "And studies say that ability to pay attention, to sit and focus can be even more important to a child's academic success than a high IQ. And the more kids play the ifocus Jungle Rangers game over the summer, the stronger those memory and attention muscles can become. That can mean an advantage when school starts in the falls. [sic]"

(Ex. D, Infomercial version 11, at p. 5-6, 9)

E. **"Will this help with ADD or AD/HD?**

While the ifocus system can help any child improve their focus and attention, much of its design was based upon cognitive training for children with impairments including AD/HD, so it will be highly beneficial for them."

"Will my child's improvements from ifocus / Jungle Rangers last or will they fade?

Research shows that once neuro pathways have been opened or strengthened they do not recede unless there is either a disease or until the onset of issues later with aging."

(Ex. E, Focus Education website – FAQs, at p. 2)

F. ANNC: "Does your child struggle with focus and concentration? Do they spend hours trying to finish their homework? Are you disappointed with your child's report card, because you know they can do better?

Because now there's an easy solution. No tutors. No classes. Remarkably… it's a video game. One that's already helped kids get good grades who'd never seen it happen before."

[script note omitted]

(Ex. F, Game Time radio ad script)

12. Daniel Amen, M.D. appears in Focus Education's infomercial describing a pilot study he conducted on Jungle Rangers in 2011. In that study, forty-five children between the ages of six and twelve trained during a twelve-week period with Jungle Rangers for an average of five hours total and were evaluated before and after the testing period using WebNeuro, an online neuro-psychological evaluation containing four outcome measures: Self-Regulation, Emotion, Feeling, and Thinking. Dr. Amen reported "statistically significant" improvements only in the Self-Regulation and Emotion outcome measures, but not in the Feeling or Thinking measures. This study was not randomized, blinded, or controlled; the children's performance in the Self-Regulation and Emotion outcome measures was in the normal range before and after using Jungle Rangers; the Self-Regulation, Emotion, and Feeling outcome measures do not measure focus, attention, or behavior; and the study did not conduct any follow-up testing to measure any permanent effects of Jungle Rangers training or collect any data on the children's existing diagnoses or academic performance.

Count I
False or Unsubstantiated Efficacy Claims

13. In connection with the advertising, promotion, offering for sale, or sale of the ifocus System, including through the use of the product name, Respondents have represented, directly or indirectly, expressly or by implication, that:

A. Playing the ifocus System's Jungle Rangers computer game improves children's focus, memory, attention, behavior, and/or school performance, including in children with ADHD; and

B. Playing the ifocus System's Jungle Rangers computer game causes permanent improvements in children's focus, memory, attention, behavior, and/or school performance, including in children with ADHD.

14. The representations set forth in Paragraph 13 are false or misleading, or were not substantiated at the time the representations were made.

Count II
False Establishment Claims

15. In connection with the advertising, promotion, offering for sale, or sale of the ifocus System, Respondents have represented, directly or indirectly, expressly or by implication, that scientific studies prove:

A. Playing the ifocus System's Jungle Rangers computer game improves children's focus, memory, attention, behavior, and/or school performance, including in children with ADHD; and

B. Playing the ifocus System's Jungle Rangers computer game causes permanent improvements in children's focus, memory, attention, behavior, and/or school performance, including in children with ADHD.

16. In fact, scientific studies do not prove the representations set forth in Paragraph 15. Therefore, the representations set forth in Paragraph 15 are false or misleading.

Violations of Sections 5 and 12

17. The acts and practices of Respondents as alleged in this complaint constitute unfair or deceptive acts or practices, and the making of false advertisements, in or affecting commerce in violation of Sections 5(a) and 12 of the Federal Trade Commission Act.

Therefore, the Federal Trade Commission this day of , 2015, has issued this Complaint against Respondents.

By the Commission.

Donald Clark
Secretary